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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
097041,975	03/13/98	ALIZON M	NC 23-0011-02

HM12/0121
FINNEGAN HENDERSON FARABOW
GARRETT AND DUNNER
1300 I STREET NW
WASHINGTON DC 20005-3315

EXAMINER
PARKIN, J

ART UNIT	PAPER NUMBER
1548	

DATE MAILED:

01/21/99

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.
09/041,975

Applicant(s)
Alizon et al.

Examiner
Jeffrey S. Parkin, Ph.D.

Group Art Unit
1648



☒ Responsive to communication(s) filed on 26 Oct 1998

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 1 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

☒ Claim(s) 23-38 is/are pending in the application.

Of the above, claim(s) _____ is/are withdrawn from consideration.

☐ Claim(s) _____ is/are allowed.

☐ Claim(s) _____ is/are rejected.

☐ Claim(s) _____ is/are objected to.

☒ Claims 23-38 are subject to restriction or election requirement.

Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on _____ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been
☐ received.

☐ received in Application No. (Series Code/Serial Number) _____.

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

☐ Notice of References Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

Restriction Requirement

***Fax Response Pilot for
Written Restriction Requirements***

1. In an effort to enhance communication with our customers and reduce processing time, Group 1640 is running a Fax Response Pilot for Written Restriction Requirements. A dedicated Fax machine is in place to receive your responses. The Fax number is (703) 305-3704. A Fax cover sheet is attached to this Office Action for your convenience. We encourage your participation in this Pilot program. If you have any questions or suggestions please contact Donald E. Adams, Ph.D., Supervisory Patent Examiner at Donald.Adams@uspto.gov or 703-308-0570. Thank you in advance for allowing us to enhance our customer service. **Please limit the use of this dedicated Fax number to responses to Written Restrictions.**

Restriction/Election

2. Restriction to one of the following inventions is required under 35 U.S.C. § 121:

- a. Group I, claim(s) 23-25, drawn to a purified **HIV-1 variant** differing genetically from other HIV-1 variants by **3.4%, 3.1%, and 13.0% in the gag, pol, and env regions**, respectively, classified in class 435, subclass 235.1.
- b. Group II, claim(s) 26 and 33, drawn to a purified HIV-1 variant differing genetically from other HIV-1 variants by 3.4%, 3.1%, and 13.0% in the gag, pol, and env regions, respectively, and by **20.7% in the env as compared to HIV-1_{BRU}**, classified in class 435, subclass 235.1.
- c. Group III, claim(s) 27 and 33, drawn to a purified HIV-1 variant differing genetically from other HIV-1 variants by 3.4%, 3.1%, and 13.0% in the gag, pol, and env regions, respectively, and by **9.8% in gag as compared to HIV-1_{BRU}**, classified in class 435, subclass 235.1.
- d. Group IV, claim(s) 28 and 33, drawn to a purified HIV-1 variant differing genetically from other HIV-1 variants by 3.4%, 3.1%, and

13.0% in the *gag*, *pol*, and *env* regions, respectively, and by 5.5% in *pol* as compared to HIV-1_{BRU}, classified in class 435, subclass 235.1.

5 e. Group V, claim(s) 29-33, 37, and 38, drawn to a purified HIV-1 variant differing genetically from other HIV-1 variants by 3.4%, 3.1%, and 13.0% in the *gag*, *pol*, and *env* regions, respectively, and by 9.8% in *gag*, 5.5% in *pol*, and 20.7% in *env* as compared to HIV-1_{BRU}, classified in class 435, subclass 235.1.

10 f. Group VI, claim(s) 34 and 38, drawn to a purified HIV-1 variant differing genetically from other HIV-1 variants by 21.7% in the *env* region, classified in class 435, subclass 235.1.

15 g. Group VII, claim(s) 35 and 38, drawn to a purified HIV-1 variant differing genetically from other HIV-1 variants by 3.4%, 3.1%, and 13.0% in the *gag*, *pol*, and *env* regions, respectively, and by 12.0% in *gag* as compared to HIV-1_{BRU}, classified in class , subclass .

20 h. Group VIII, claim(s) 36 and 38, drawn to a purified HIV-1 variant differing genetically from other HIV-1 variants by 3.4%, 3.1%, and 13.0% in the *gag*, *pol*, and *env* regions, respectively, and by 7.7% in *pol* as compared to HIV-1_{BRU}, classified in class 435, subclass 235.1.

25 3. The inventions are distinct, each from the other because of the following reasons:

30 4. Inventions I-VIII are unrelated. Inventions are unrelated if it can be shown that they are not disclosed as capable of use together, or they have different modes of operation, or they have different functions, or they have different effects (refer to M.P.E.P. §§ 806.04 and 808.01). In the instant case each of the
35 aforementioned groups is directed toward a genotypically/phenotypically different isolate. Each virus will contain different nucleotide and/or amino acid sequences and attendant biochemical, immunological, and pathological properties. Furthermore, a separate search will be required for each virus. Therefore, each invention is clearly drawn toward a different
40 inventive entity.

5. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, requirement for independent searches, and recognized divergent subject matter, restriction for examination purposes as indicated is proper.

Claim Cancellation

6. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 C.F.R. § 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a diligently-filed petition under 37 C.F.R. § 1.48(b) and by the fee required under 37 C.F.R. § 1.17(h).

Correspondence

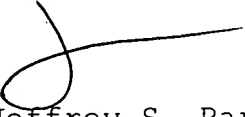
7. Correspondence related to this application may be submitted to Group 1600 by facsimile transmission. The faxing of such papers must conform with the notice published in the Official Gazette, 1096 OG 30 (November 15, 1989). Official communications should be directed toward one of the following Group 1600 fax numbers: (703) 308-4242 or (703) 305-3014. Informal communications may be submitted directly to the Examiner through the following fax number: (703) 308-4426. Applicants are encouraged to notify the Examiner prior to the submission of such documents to facilitate their expeditious processing and entry.

8. Any inquiry concerning this communication should be directed to Jeffrey S. Parkin, Ph.D., whose telephone number is (703) 308-2227. The examiner can normally be reached Monday through Thursday from 8:30 AM to 6:00 PM. A message may be left on the examiner's voice mail service. If attempts to reach the examiner are unsuccessful, the examiner's supervisor, Chris Eisenschenk, J.D., Ph.D., can be reached at (703) 308-0452. Any inquiry of a general nature or

Serial No.: 09/041,975
Applicants: Alizon et al.

relating to the status of this application should be directed to the Group 1600 receptionist whose telephone number is (703) 308-0196.

Respectfully,



Jeffrey S. Parkin, Ph.D.
Patent Examiner
Art Unit 1648

15 January, 1999



LAURIE SCHEINER
PRIMARY EXAMINER



RESTRICTION/ELECTION FACSIMILE TRANSMISSION

DATE:

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COMMENTS: _____

IF YOU HAVE NOT RECEIVED ALL THE PAGES OF THIS TRANSMISSION, PLEASE CONTACT THE ATTORNEY AT THE TELEPHONE NUMBER LISTED ABOVE.

IN COMPLIANCE WITH 1096 OG 30, THE FILING DATE ACCORDED EACH OFFICIAL FAX TRANSMISSION WILL BE DETERMINED BY THE FAX MACHINE DATE STAMP FOUND ON THE LAST PAGE OF THE TRANSMISSION, UNLESS THAT DATE IS A SATURDAY, SUNDAY, OR FEDERAL HOLIDAY WITHIN THE DISTRICT OF COLUMBIA, IN WHICH CASE THE OFFICIAL DATE OF RECEIPT WILL BE THE NEXT BUSINESS DAY.

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